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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/824,254	04/02/2001	Shin Iima	450100-03122	1519
20999	7590	10/13/2005	EXAMINER	
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			ELISCA, PIERRE E	
			ART UNIT	PAPER NUMBER
			3621	

DATE MAILED: 10/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/824,254

Applicant(s)

IIMA ET AL.

Examiner

Pierre E. Elisca

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-12 is/are pending in the application.
- 4a) Of the above claim(s) 2 and 13-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-9, 11 and 12 is/are rejected.
- 7) ☒ Claim(s) 5 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/05 and 5/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This office action is in response to Applicant's amendment, filed on 08/03/2005.
2. Claims 2, and 13-37 are cancelled. Claims 1, 3-12 are pending.

Allowable Subject Matter

3. Claims 5 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3-4, 6-9 and 11-12 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Kocher et al (U.S. Pat. No. 6,640,305) and Tateishi (U.S. Pat. No. 5,669,007) and Khan et al (U.S. Pat. No. 6,199,054) and view of Tatebayashi et al (U.S. Pat. No. 6,859,535).

As per claims 1, 3-4, and 8-9 Kocher substantially discloses a digital content distribution, comprising:

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Digital content data (see., abstract, col 1, lines 17-24, col 5, lines 52-67). It is to be noted that Kocher fails to explicitly disclose a digital content data attached with said cost and converting a data format, wherein said cost (cost or content fee) information includes at least one unit price of said unit data volume. However, Tateishi discloses a character recognition that has four-element data converted and a header label that is attached the cost (cost or content fee) [see., col 6, lines 53-59, col 8, lines 5-10, col 12, lines 54-67. Tateishi further discloses in the abstract that by summing the costs for the traveled nodes and links, a total cost (**total cost or total fee**) value can be associated with each path. Please note that it is obvious to recognize that the cost value also includes a price or fee]. Accordingly, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the digital content of Kocher by including the limitations detailed above as taught by Tateishi because this would facilitate information retrieval in the digital content.

Kocher and Tateishi fail to disclose wherein said a means for computing a communication fee for the delivery. Khan discloses a separate transmittal envelope to assist in the transmission of the digital payload envelope and processing of the delivery charges (deliver charges or communication fee) see., abstract, specifically col 2, lines 60-67. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Kocher and Tateishi by including the limitations detailed above as taught by Khan because this would provide quality services for billing customers for the services they use.

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Kocher, Tateishi, and Khan fail to disclose Applicant's newly added limitation wherein said content data is reproduced by the user. Tatebayashi discloses a digital content protection system in which the system allows users to record and reproduce the distributed contents (see., abstract, col 1, lines 9-36). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Kocher, Tateishi, and Khan by including the limitation detailed above as taught by Tatebayashi because this would prevent contents that have been properly obtained from being used without a proper authorization.

As per claims 6, 7, 11, and 12 Kocher substantially discloses a digital content distribution, comprising:

Digital content data (see., abstract, col 1, lines 17-24, col 5, lines 52-67). It is to be noted that Kocher fails to explicitly disclose a digital content data attached with said cost and converting a data format, wherein said cost (cost or content fee) information includes at least one unit price of said unit data volume. However, Tateishi discloses a character recognition that has four-element data converted and a header label that is attached the cost (cost or content fee) ([see., col 6, lines 53-59, col 8, lines 5-10, col 12, lines 54-67. Tateishi further discloses in the abstract that by summing the costs for the traveled nodes and links, a total cost value (total cost or total fee) can be associated with each path. Please note that it is obvious to recognize that the cost value also includes a price or fee]. Accordingly, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the digital content of Kocher

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by including the limitations detailed above as taught by Tateishi because this would facilitate information retrieval in the digital content.

Kocher and Tateishi fail to disclose Applicant's newly added limitation a means for computing a communication fee for the delivery. Khan discloses a separate transmittal envelope to assist in the transmission of the digital payload envelope and processing of the delivery charges (deliver charges or communication fee) see., abstract, specifically col 2, lines 60-67. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Kocher and Tateishi by including the limitations detailed above as taught by Khan because this would provide quality services for billing customers for the services they use.

Kocher, Tateishi, and Khan fail to disclose Applicant's newly added limitation wherein said content data is reproduced by the user. Tatebayashi discloses a digital content protection system in which the system allows users to record and reproduce the distributed contents (see., abstract, col 1, lines 9-36). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Kocher, Tateishi, and Khan by including the limitation detailed above as taught by Tatebayashi because this would prevent contents that have been properly obtained from being used without a proper authorization.

RESPONSE TO ARGUMENTS

6. Applicant's arguments have been fully considered but they are moot in view of new ground (s) of rejection. Necessitated by amendment.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre E. Elisca whose telephone number is 571 272 6706. The examiner can normally be reached on 6:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571 272 6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Pierre Eddy Elisca

Primary Patent Examiner

October 06, 2005